

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

STIPULATED AGREEMENT NO. 1071

T04-0053

This agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("COMMISSION"), the Illinois Central Railroad Company ("COMPANY"), the Village of Pesotum ("VILLAGE"), and the State of Illinois, Department of Transportation ("DEPARTMENT").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through application to the Crossing Safety Improvement Program that inquiry should be made into the matter of improving public safety at the 300N/TR295A highway-rail grade crossing of the Company's track located in Pesotum, Champaign County, Illinois, designated as crossing AAR/DOT 289 101M, milepost 141.35-M; and

WHEREAS, proper investigation has been made of the circumstances surrounding the aforesaid crossing by a representative of the Commission's Transportation Division Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and sight distances and other pertinent data relating to the crossing have been obtained and shown on Exhibit A, attached to the Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish the proposed improvements upon a determination of the Commission by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties pray that the Commission enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law requiring that certain improvements as hereinafter stated be made and that the cost for the proposed improvements be divided among the parties according to law and that in the interest of the statewide traveling public the Grade Crossing Protection Fund of the Motor Fuel Tax Law be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 All improvements encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and orders and procedures in general.

DOCKETED

Section 2 The parties are of the opinion that the proper improvements in the interest of public safety at the aforesaid crossing should be:

- (a) The installation of automatic flashing light signals and gates controlled by constant warning time circuitry.
- (b) The installation of temporary STOP signs (if ordered) at the 300N/TR295A crossing within 30 days of receipt of a Commission Order for the installation of new automatic warning devices.
- (c) Improvement of the east highway approach to comply with 92 Illinois Administrative Code, Part 1535.204.

Section 3 The Company has prepared a preliminary estimate of cost to accomplish the proposed improvements, which it may be required to perform. Said estimate is attached as Exhibit B. The Company shall upon Order, according to the requirements contained therein, prepare detailed drawings, detailed circuit plans, estimates of cost and any required specifications for the proposed improvements for the approval of the Commission and Department.

The Village has prepared a preliminary estimate of cost to accomplish the proposed improvements, which it may be required to perform. Said estimate is attached as Exhibit C. The Village shall upon Order, according to the requirements contained therein, prepare detailed drawings, estimates of cost and any required specifications for the proposed improvements for the approval of the Commission and Department.

Section 4 The Company and the Village shall upon Order, according to the requirements contained therein, proceed toward the completion of the proposed improvements, accomplishing the work with its own forces or appropriate contracted services and agrees that an appropriate time for the submission of plans should be 90 days and for the completion of the proposed improvements should be twelve (12) months, from the date of Commission Order subsequent to this Agreement.

Section 5 The parties hereto agree that an equitable division of cost for the proposed improvements should be:

- (a) The cost for the improvements listed in Section 2(a) is estimated to be \$123,290. The Grade Crossing Protection Fund should pay 30% of the actual installation cost, not to exceed \$36,987. The Department, utilizing federal funds, should pay 70% of the actual installation cost, not to exceed \$86,303. The Company should pay any remaining installation costs, as well as all future operating and maintenance costs. (See Exhibit B)
- (b) The Company should pay 100% of the cost to install and maintain temporary STOP signs (if ordered) at the subject crossing.
- (c) The cost for the improvements listed in Section 2(c) is estimated to be \$34,500. The Grade Crossing Protection Fund should pay 100% of the actual cost, not to exceed \$34,500. The Village should pay any remaining construction costs, as well as all future maintenance costs.

Section 6 Special Provisions:

Since federal funding is being utilized for the warning device improvements at the subject crossing, appropriate provisions of Title 23, Chapter I, Subchapter G, shall cover all such work, Part 646 of the Federal-Aid Policy Guide adopted Dec. 9, 1991.

Since the warning device improvements at the subject crossing will be performed by the Company, flagging or contractor liability insurance will not be required for said work.

Since the highway approach the Village, or their respective contractor crews, will perform improvements at the subject crossing, flagging and contractor liability insurance will be required for said work.

The Company and the Village shall each, at six (6) month intervals from the date of Commission Order subsequent to this Agreement, submit to the Director of Processing and Information, Transportation Bureau of the Commission, a written report stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of Company Village employee responsible for management of the project.

All bills for expenditures related to items described in Section 2(c) authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the District Five Office of the Department at 13473 Illinois Highway 133, P.O. Box 610, Paris, Illinois 61944. All other bills for expenditures authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit of the Illinois Department of Transportation's Bureau of Local Roads and Streets, Illinois Department of Transportation, Central Bureau of Local Roads and Streets, Room 205, 2300 South Dirksen Parkway, Springfield, Illinois 62764. The Department shall send a copy of all bills to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twenty-four (24) months from the date of Commission Order subsequent to this Agreement. The Department shall, at the end of the 24th month from the Commission Order date, de-obligate all residual funds accountable for installation cost for this project.

Public Act 93-0604 (effective November 21, 2003), which amends 18c-7401 (Safety Requirements for Track, Facilities, and Equipment) of the Illinois Commercial Transportation Law, requires installation of temporary STOP signs whenever the Commission authorizes the installation of automatic flashing light signals or automatic flashing light signals and gates at public highway-rail grade crossings. The temporary STOP signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. The rail carrier is responsible for the cost of the installation and subsequent maintenance of any required temporary STOP signs.

625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects the parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises the parties that any failure to comply may result in the assessment of such sanctions.

Any person making a Request For Extension Of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

Any person requesting an extension of time that exceeds 30 days must file a Petition For Supplemental Order with the Director of Processing no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

Requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered time;

The Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Order and Requests For Extension Of Time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

Section 7 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the Commission shall enter an appropriate order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.

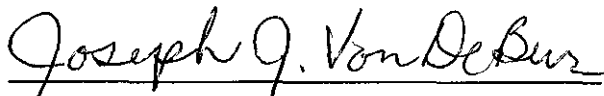
In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated herein.

Executed by the Commission this 26th day of **March, 2004**.



Michael E. Stead
Rail Safety Program Administrator

Attest:



Joseph J. Von De Bur
Railroad Safety Specialist

Illinois Commerce Commission Stipulated Agreement No. 1071 concerning improvements at the 300N/TR295A grade crossing of the Illinois Central Railroad Company tracks in Pesotum, Champaign County, Illinois, designated as crossing AAR/DOT 289 101M, milepost 141.35-M.

Executed by the Company this 14th day of April 2004.

ILLINOIS CENTRAL RAILROAD COMPANY

By: Paul E. Ladue
Region Director Contracts & Administration

Attest:

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APPROVED AS TO FORM	
Materials Management
Engineering	<u>T.H. Zeng</u>
Accounting
Legal	<u>M. Brown</u>
EXECUTION	
Law	<u>M. Brown</u>

Illinois Commerce Commission Stipulated Agreement No. 1071 concerning improvements at the 300N/TR295A grade crossing of the Illinois Central Railroad Company tracks in Pesotum, Champaign County, Illinois, designated as crossing AAR/DOT 289 101M, milepost 141.35-M.

Executed by the Department this 5th day of May 2004.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By: Victor A. Moders
Director of Highways

Illinois Commerce Commission Stipulated Agreement No. 1071 concerning improvements at the 300N/TR295A grade crossing of the Illinois Central Railroad Company tracks in Pesotum, Champaign County, Illinois, designated as crossing AAR/DOT 289 101M, milepost 141.35-M.

Executed by the Village this 19th day of May 2004.

VILLAGE OF PESOTUM

By: Scott Monro
Village President

Attest:

MaryBeth Henry
Village Clerk

**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT
CROSSING DATA FORM**

GENERAL INFORMATION: See Location Sketch

RAILROAD	Canadian National/Illinois Central Railroad Company
USDOT#, MILEPOST	289 101M, 141.35-M
STREET, CITY, COUNTY	300N/TR295A, in Pesotum, Champaign County
JURISDICTION (RDWY)	Village of Pesotum
LOCATION	Rural, Agricultural.
STREET SURFACE	14 Foot Width, Two-lane, Two-way, Oil and Chip Roadway in Fair Condition

CROSSING DATA: Also see Location Sketch for roadway profile and track centers

TRACK	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
Main	Full Depth Timber	24 Feet	Fair

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	US 45 – 118 feet west
TRAFFIC CONTROL	Stop Sign for 300N traffic
ADT & SPEED	(Estimated) 70 Vehicles Per Day @ 30-45 MPH (Not Posted)
TRAFFIC TYPE	Passenger, Possible School Busses, Possible Hazardous Materials, Possible Emergency Response
ADVANCE WARNING	East and West
PAVEMENT MARKING	None

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	26 Per day @ 60 MPH, No Switch Movements, Day & Night
PASSENGER TRAFFIC	4 Per day @ 79 MPH
WARNING DEVICES	Reflective crossbucks

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	79	MPH
Roadway Speed	45 (Assumed)	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	360	FEET
Along Tracks	770	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	1890	FEET

Distances calculated per American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, 2001, Fourth Edition.

QUADRANT	CSD (FT)	OBSTRUCTION	SSD (FT)	OBSTRUCTION
NE	*		*	
NW	*		*	
SE	*		*	
SW	*		*	

*Note: Automatic flashing light signals and gates (AFLS&G) eliminate the need to satisfy minimum Site Distance criteria.

APPROACH GRADES: See Location Sketch

DIRECTION: WEST			DIRECTION: EAST		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
0	100.0	---	0	100.0	---
25	98.8	-4.8	25	99.7	-1.2
50	97.3	-6.0	50	98.2	-6.0
100	95.9	-5.6	100	94.7	-7.0

Distance measured from outermost rail.

COMMENTS:

This is a joint ICC/IDOT project.

PROPOSED COST DIVISION:

FUND SOURCE	SIGNAL	APPROACH
Grade Crossing Protection Fund (ICC)	30%	100%
TEA-21 Funds (IDOT)	70%	0%
Illinois Central Railroad Company	0%	0%
Village of Pesotum	0%	0%

The proximity of US45 to the west of the crossing makes the improvement of the west approach economically impractical. A variance will need to be granted to maintain the west approach as it is.